IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

THURSDAY, THE 31ST MAY 2007 / 10TH JYAISHTA 1929

WP(C).No. 25098 of 2006(K)

PETITIONER:

N.KANNAN,
(WATCHER T.V.PURAM DEVASWOM BOARD)
S/O.NARAYANAN CHETTIYAR,
ARYA SAMOOHAM,
KIZHAKKENADA,
THEKKENADA P.O., VAIKOM, DISTRICT KOTTAYAM.

BY ADV. SRI.K.REGHU KOTTAPPURAM
SMT.URSULA FRANCIS

RESPONDENTS:
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1. **TRAVANCORE DEVASWOM BOARD,**
   REP. BY THE SECRETARY,
   NANDANCODE, THIRUVANANTHAPURAM.

2. **THE ASSISTANT DEVASWOM COMMISSIONER,**
   VAIKOM GROUP, VAIKOM,
   DISTRICT KOTTAYAM.

3. **THE SUB GROUP OFFICER,**
   T.V.PURAM DEVASWOM,
   VAIKOM GROUP, T.V.PURAM,
   VAIKOM.

BY ADV.SRI.D.SREEKUMAR, SC, TDB.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 31/05/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.25098/2006:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE INTERIM ORDER DTD. 08/08/06 IN W.P.(C). NO. 28577/05.

EXT.P.2: COPY OF THE COMPLAINT DTD. 28/08/06 TO THE R.2.

EXT.P.3: COPY OF THE FITNESS CERTIFICATE DTD. 30/08/06.

EXT.P.4: COPY OF THE DISCHARGE CARD VIDE I.P. NO. 6997.

EXT.P.5: COPY OF THE REPRESENTATION DTD. 18/09/06.

EXT.P.6: COPY OF THE LAWYER NOTICE DTD. 20/09/06 TO THE R.2.

EXT.P.7: COPY OF THE TELEGRAM NOTICE DTD. 20/09/06 TO THE R.3.

EXT.P.8: COPY OF THE MEMO NO. 117 DTD. 16/09/06.

EXT.P.9: COPY OF THE REPLY DTD. 20/09/06 FILED AGAINST P.8.

EXT.P.10: COPY OF THE ORDER NO. ROC 18698/06/MIS. DTD. 29/09/06.

RESPONDENT'S EXHIBIT:

EXT.R1.A: COPY OF THE ORDER ROC NO. 18698/06/MISA DTD. 29/09/06 ISSUED BY THE R.1.

//TRUE COPY//

prv.

K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 25098 OF 2006-K

JUDGMENT

The petitioner is a Watchman, working under the 1st respondent Devaswom Board. His application for leave was not dealt with as desired by him, in Ext.P8 communication. Therefore, this writ petition was filed, challenging said communication. During the pendency of the writ petition the petitioner was suspended from service, by Ext.P10 order, pending disciplinary proceedings. So, the writ petition was amended, challenging Ext.P10 also. The petitioner prays for quashing Exts.P8 and P10.

2. The learned standing counsel for the Devaswom Board submitted that the disciplinary proceedings initiated against the petitioner are in the final stage. The enquiry is likely to be completed by the end of June, 2007 and final orders could be passed within one month thereafter.

3. This Court under Article 226 of the Constitution of India, cannot go into the correctness of the suspension order Ext.P10. If the statements therein are taken to be correct, then there is nothing illegal with Ext.P10. But, according to the petitioner, the allegations are incorrect. It is a matter, which he has to raise before the Enquiry Officer. Ext.P8 is only a warning

letter. Therefore, it does not affect any of the rights of the petitioner. So, the challenge against Exts.P8 and P10 cannot be upheld. But, the competent authority among the respondents shall finalise the disciplinary proceedings against the petitioner within two months from the date of production of a copy of this judgment.

4. The Devaswom Commissioner shall consider within one month from the date of receipt of a copy of this judgment, whether the petitioner could be reinstated in service without prejudice to the disciplinary proceedings and posted to some other place, so that he may not influence or interfere with the enquiry, which is going on. Since this Court has already fixed a time limit for completing the proceedings, the petitioner shall co-operate with the enquiry proceedings without taking unnecessary adjournments.

5. The petitioner has got yet another grievance. According to him, so far, he has not been paid the subsistence allowance due as per the service Rules applicable to the employees of the Board. If that be so, the respondents shall ensure that the same is paid to the petitioner, subject to satisfying the conditions like production of non-employment certificate etc. On satisfying those conditions, subsistence allowance due to him shall be released within one month from the date of receipt of a copy of this

judgment.

The Writ Petition is disposed of as above.

31st May, 2007. K.BALAKRISHNAN NAIR, JUDGE.

Nm/